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1 June 1993

ENGLISH

HUMAN RIGHTS COMMITTEE

Forty-first session

SUMMARY RECORDS OF THE 1037TH TO 1063RD MEETINGS

Held at Headquarters, New York,
from 25 March to 12 April 1991

Corrigendum

This corrigendum contains delegation and Secretariat corrections to the summary records of the public meetings held by the Human Rights Committee during its forty-first session (CCPR/C/SR.1037-1054, 1056/Add.1, 1057-1060, 1062/Add.1 and 1063/Add.1).

The Committee also held seven closed meetings during the session, the records of which (CCPR/C/SR.1038/Add.1, 1055, 1056, 1060/Add.1, 1061, 1062 and 1063 were issued in restricted distribution. No corrections were made to the records of those meetings.

With the issuance of this corrigendum, the records of the abovementioned public meetings are to be considered final.

1042nd meeting

Paragraph 36, line 1

After it insert normally

Paragraph 42, line 1

For arose read should arise

1043rd meeting

Paragraph 1

Line 1 should read:

1. At the invitation of the CHAIRMAN, Mr. Corell, Mr. Lempert and Mr. Rundqvist

Paragraph 4, line 9

For International Labour Board read National Labour Market Board

Paragraph 12, line 3

For 15,000 to 16,000 read approximately 1,550 to 1,600

Page 5, paragraph 15

Lines 4 and 5 should read:

instance, the written content of letters to or from a patient could no longer be examined. One important amendment established legal time-limits for periods

Paragraph 34

The last sentence should read:

The police, however, could not issue a care order as such, but could temporarily take care of a person in need of psychiatric help and hand him or her over to the appropriate health facility.

Paragraph 35

Lines 1 and 2 should read:

35. On the use of the terms "probable cause" and "reasonable suspicion", he explained that there had been considerable discussion in

Paragraph 36, line 2

For section 8 read section 9

Paragraph 38

Line 6 should read:

status with the courts. From 1992, however, such decisions were to be taken by the

Paragraph 40

The last three lines should read:

basically respectable people who were serving a sentence because they had driven a car after drinking too much alcohol. Such persons might in other respects serve as an example to younger prisoners.

Paragraph 45

Delete the last sentence

Paragraph 64, line 4

Delete most

Paragraph 70, line 3

After accounted for insert approximately

1044th meeting

Paragraph 9, line 2

For 8 (a) read 9 (a)

Paragraph 11, line 9

For Senate read Synod

Paragraph 12, last line

For new electronic media read other media

Paragraph 14, line 2

After freedom of insert cinema

1045th meeting

Page 3

At the end of the paragraph 5, add:

Mr. Halliday said that the delegation would answer the Committee's questions fully and without prejudice to the position of the United Kingdom on the proper interpretation of the Covenant.

Paragraph 17

The first sentence should read:

Mr. STOCK (United Kingdom) said, with reference to section I (d) of the list of issues, that the draft Bill of Rights, which had been introduced to the legislature, was under consideration and was subject to change during the debate. It was expected to be enacted before the summer by the Legislative Council. It contained two key provisions concerning its relationship with other laws.

Lines 5 and 9: for Article read Clause

Page 7, paragraph 19

Lines 7, 8 and 9 should read:

remedies recommended had varied. They included a review of procedures or decisions, making ex gratia payments to make good to complainants expenses they might have incurred or financial losses they might have suffered, proffering of an apology, or undertakings to avoid similar errors in the future. In his report - copies of

Line 12: for civil-law read common-law

Line 22: for did in fact discourage complaints read that it seemed likely that this discouraged some from bringing forward complaints

Penultimate line: for United Kingdom read Hong Kong Government

/...

Paragraph 42, last line

For 1987 read 1997

1046th meeting

Pararaph 41

Line 3 should read:

circumstances of the Territory and in particular of the geographic and historical factors and the fact that much of it was subject to a

Paragraph 44

Line 2: for provisions read rights and obligations

Line 3: after course insert with the Joint Liaison Group machinery

Paragraph 47

The last three sentences should read:

One reason was that the Bill of Rights had been framed so as to encapsulate in one instrument the provisions of the Covenant and make them justiciable in Hong Kong, to guarantee that effect was given to the Joint Declaration, and to ensure that the new instrument would survive the 1997 transition. The Bill of Rights consequently had to be compatible with the Basic Law, which contained provisions for striking down incompatible laws and which provided for special voting procedures in limited, prescribed circumstances and also for the passage of legislation by simple majority. No Hong Kong law had ever been entrenched in the manner proposed and the arguable lack of competence of certain dependent Territory legislatures to enact special procedure legislation would have represented yet another difficulty.

Paragraph 48

The second and third sentences should read:

He had informed the Committee that it was the intention of the Government of the United Kingdom to amend the Letters Patent to entrench the Covenant through that vehicle.

Paragraph 49

For the existing text, substitute:

49. In response to questions by Committee members, legislative review was an ongoing process, as borne out by improvements made to the legislation from time to time, even before the Bill of Rights was introduced. He drew the attention of members to the fact that the Law Reform Commission of Hong Kong had undertaken a project with respect to the procedures regarding police powers of stop and search and also that there were proposals to reform Hong Kong laws on homosexuality. In addition, the Law Reform Commission was examining the right of privacy with specific reference to the Covenant, stop and search powers of police and the question of illegitimacy. A "freeze" on existing legislation had been declared as a precautionary measure. The purpose was to prevent operational lacunae from arising should an existing law

be struck down by the new Bill of Rights, especially in the area of law enforcement. A one-year freeze was proposed on all existing legislation, renewable for an additional year. A number of groups had voiced opposition to the blanket freeze and had suggested various alternatives. The Government had carefully considered those representations and its response would be made public in the very near future.

Paragraph 50

The first sentence should read:

In response to questions about the composition of the legislature in 1996, he said that some suggestion had been made that no encouragement had been given to the development of democracy in Hong Kong. However, this did not accord with the recent history of that matter.

Line 4: for had been elected for the first time read saw for the first time elected membership

The fourth, fifth and sixth sentences should read:

In 1988, the Government produced a White Paper announcing plans for 1991. In the meantime, however, the legislature in 1988 took on a different complexion, with 14 members elected through functional constituencies, 12 through electoral college, and 20 appointed members and 10 officials. Developing circumstances after 1988 resulted in the review of the 1988 decision concerning the composition of the legislature. This review concluded in 1990 and it recognized the demand for a faster pace of political development.

Paragraph 51

Line 3: after composition of the insert legislature of the

The last sentence should read:

The objective of this exercise would be to ensure the minimum disruption and the smooth continuation of functions, through and beyond 1997.

Paragraph 52

For the existing text substitute:

52. Mr. DYKES (United Kingdom), replying to questions by Committee members, said that the Law Reform Commission in Hong Kong had been established 10 years earlier and was composed of 15 members, including the Attorney General, the Chief Justice and the Law Draftsman who was responsible for the preparation of all legislation in Hong Kong. The other 12 members included judges, academics, lawyers and some eminent lay people. The Attorney General and the Chief Justice were responsible for selecting the legal topics referred to the Commission. Sub-Committees were appointed to make preliminary reports. The Commission and the sub-committees were served by a legally qualified secretariat. As indicated in the third periodic report and the update, the Commission had an extremely full agenda and it was not unusual for a reference to take up to two years before a report was issued. The sub-committee on arrest and detention, for example, had begun its work in January 1989 and was expected to finish its reference at the end of 1991. The finalized report would be ready for publication towards the end of 1992.

Paragraph 55

Line 1: for 1986 read 1985

Line 4: for the Republic of Ireland read Northern Ireland

Paragraph 56, line 13

For with read within

1047th meeting

Paragraph 7, line 3

After Region, insert the history of the negotiations of the Basic Law and that part of the territory held under perpetual lease,

Paragraph 9, line 4

For was not in keeping with read breached

Paragraph 10, line 11

For intensive read extensive

Paragraph 11, line 4

For leased read ceded

Paragraph 19, line 8

For Annex II (III) read section III of Annex II

Paragraph 21, line 2

For incorrect read inappropriate

Paragraph 25, line 2

After obtaining insert usable

Paragraph 46, line 2

For the United Kingdom read Great Britain

Paragraph 50

Line 1: for in both the rest of read throughout

Line 2: delete and Northern Ireland

Paragraph 54

Line 1: for emerging read emergency

The last sentence should read:

Future emergency laws that were inconsistent with the Covenant would before 1997 be struck down by the amended Letters Patent.

Paragraph 55

At the end of the paragraph, add:

In order to resolve any inconsistency between the Covenant and the emergency regulations, a comprehensive review of the ordinance and the regulations thereunder would be carried out to ensure strict compliance with the Bill of Rights.

1048th meeting

Paragraph 3, line 2

For Act 1984 read Order 1989

Paragraph 5, last line

For subtle read complex

Page 4, paragraph 14

Line 1: for particularly read for example

Last line: for must be erased read would itself be a cause for serious concern

Paragraph 16

Lines 1 and 2: delete , referring to fair employment legislation in Northern Ireland,

Penultimate line: for a judicial committee read the Judicial Committee

Paragraph 18, last line

For was being considered read could in due course be made

Paragraph 20

Penultimate line: delete Bill

Last line: after preserve insert a traditional way of life and is essential to maintain

Paragraph 21

Line 3: for elaboration read preparation

Line 6 should read:

relation to article 26 of the Covenant. A study was being

Paragraph 24, line 2

After phenomena, insert which in some cases could be

Paragraph 38

Line 4 should read:

on the part of the security forces in Northern Ireland. The policy which

Line 5: delete which

Line 6: after order were insert subject to and

Paragraph 39

Lines 3 and 4 should read:

purpose. With respect to detentions under immigration powers, only a small

Paragraph 41

Line 8: after over. insert About 50 per cent thought that the penalty should not be abolished, 33 per cent thought it should be abolished and 20 per cent had no opinion.

Penultimate line: for Administration read legislature

Paragraph 44, penultimate line

For the survey alone read a single survey, but had had regard to the longstanding views of the people of Hong Kong

Paragraph 46, penultimate line

For the years read a number of years and in a multitude of ways

Paragraph 50

The last sentence should read:

In order to establish whether any further steps could be taken to safeguard the innocent while also securing the conviction of the guilty, the Government had set up a Royal Commission on criminal justice.

Paragraph 60

The penultimate sentence should read:

The effectiveness of such programmes could be measured by the reconviction rate and other indicators.

1049th meeting

Paragraph 21

The second sentence should read:

Such a provision was far from unique in the law of England and Wales; it was found, for example, in the legislation dealing with incitement and racial hatred.

Paragraph 25, penultimate line

For secure accommodation read local authority care

Paragraph 26

Line 4 should read:

aggressive and likely to do himself or others harm. The statutory criteria specified

Paragraph 27, lines 1 and 2

For Children and Young Persons Act read Children's Act

Paragraph 28

Lines 1 and 2 should read:

28. Unlike jury trials in Northern Ireland, in which the verdict of guilty or not guilty was not accompanied by any reasons whatsoever, in non-jury criminal trials the judge was required to

Line 3: delete new and different

Paragraph 29

Line 4: after compulsion insert to speak

Last line: after itself insert of guilt

Paragraph 34, line 6

After delay insert in the exercise of the rights

Paragraph 35

Line 4: for particularly read particular

Line 7: delete of a building

Paragraph 36, penultimate line

Delete into one clause

Page 8, paragraph 37

Lines 8 to 11 should read:

statistics on the number of convictions for such offences. The Prevention of Terrorism (Temporary Provisions) Act and the current Northern Ireland (Emergency Provisions) Act conferred power on the Secretary of State to add to that list; the criteria

Paragraph 39

Line 2 should read:

article 7 of the Covenant, said that he had explained how rights under the Covenant rather than the Bill of Rights would be entrenched in Hong Kong before and after 1997. While the Covenant would be entrenched in the

Paragraph 44, line 9

For 4 read 74

Paragraph 59

The last two lines should read:

too simple. The system in England and Wales could be said to have gained in inquisitorial features, for example in the arrangements for dealing with serious fraud. The case for incorporating more such features would be considered by the Royal Commission on Criminal Justice.

Paragraph 61

Line 1 should read:

61. Changes in the criminal justice system in England and Wales would depend

Paragraph 62, line 4

Delete of the United Kingdom

Paragraph 67

Lines 3, 4 and 5 should read:

question of fact or a mixture of law and fact, leave of the Court of Appeal was required, unless a certificate that the case was fit for appeal was given by the trial judge.

Paragraph 73

The second sentence should read:

Further action was likely to flow from the work of the Royal Commission on Criminal Justice.

Paragraph 82

Line 16: for 1989 Broadcasting Bill read Broadcasting Act

Page 17, line 3: for his read the

Paragraph 84

Line 10 should read:

In the case of the legal profession from which judicial appointments were made, this was a matter for the

1050th meeting

Page 6, paragraph 26, line 5

For Ministries read Ministers

Paragraph 29

Line 2 should read:

/...

Minister's statement on vetting arrangements for the civil service, but noted that it did

Paragraph 30

Line 2: for Chapel read Chappell

Line 3: delete 1981

Lines 4, 5 and 6 should read:

of Mr. Lallah's comments on the right to privacy and confirmed that the Security Service Act applied to the Security Service. That Act represented the first statutory text covering the Security Service; it contained new safeguards and specified remedies

Lines 9 and 10 should read:

commissioner. He did not have sufficient data to be able to reply to Mr. Lallah's question

Page 7, paragraph 31, line 3

For discipline read disciplined

Paragraph 32

Line 4: for Cable and Broadcasting Act read broadcasting ban

Line 5: for publication read newspaper reports

Penultimate line: delete Cable and

Paragraph 33, last line

For indeed read in general

Paragraph 34, line 5

After must be insert seen to be

Paragraph 35

Line 2 should read:

injunctions in respect of proceedings for breach of confidence. One issue was whether damages would

Line 4: after The Guardian insert and others

Paragraph 36

Line 1: after Mr. STOCK insert (United Kingdom)

Line 2: delete in the public interest

Line 3 should read:

specific approval of the Governor whenever he considered that the public interest so required, for the purposes of detecting and preventing serious crime and for the purpose of security

Paragraph 37

The last two lines should read:

forewarn those under investigation, although he understood that the Commissioner for the Independent Commission Against Corruption was not opposed to lifting these restrictions which related to post-arrest reporting.

Paragraph 38

The last two lines should read:

several asylum seekers had had access to the courts with the help of legal aid provided to them by the Hong Kong Government and some had been successful in pursuing their claims.

Paragraph 39, last line

After arisen add , as far as he was aware

Paragraph 41, line 3

After amended, and insert judicial

Paragraph 42

For the existing text substitute:

42. Mr. DYKES (United Kingdom), responding to questions, said that whether limitations were placed on the right of assembly on the ground of public nuisance would depend on the facts of the particular case. However, the need for particular limitations in individual cases would be a justiciable issue under the Bill of Rights. With regard to prohibitions of public meetings, meetings which involved more than the numbers specified in the Public Order Ordinance required the permission of the Commissioner of Police. Permission had been withheld on six occasions in 1989 and 1990 either because of inadequate notification of the event or because the venue was considered to be unsuitable.